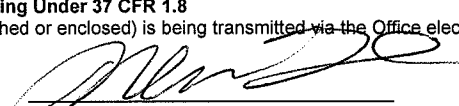


**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: Robert L. Bratzler et al.  
Serial No.: 09/776,479  
Confirmation No.: 7139  
Filed: February 2, 2001  
For: IMMUNOSTIMULATORY NUCLEIC ACIDS FOR THE  
TREATMENT OF ASTHMA AND ALLERGY  
Examiner: N. M. Minnifield  
Art Unit: 1645

<b>Certificate of Electronic Filing Under 37 CFR 1.8</b>	
I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being transmitted via the Office electronic filing system in accordance with § 1.6(a)(4).	
Dated: <u>SEP 15, 2008</u>	 Michelle M. Quinn

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

**TELEPHONE INTERVIEW SUMMARY**

In view of the Telephone Interview with Examiner Minnifield on August 15, 2008, Applicant submits the following Telephone Interview Summary.

Examiner Minnifield contacted Applicant's representative (the undersigned) on August 15, 2008 to discuss claim amendments that would place the case in allowance. The first proposed amendment was to amend claim 12 to recite that the cytosine residue of the 5' N<sub>1</sub>X<sub>1</sub>X<sub>2</sub>CGX<sub>3</sub>X<sub>4</sub>N<sub>2</sub> 3' sequence is unmethylated. The second proposed amendment was to amend claim 12 to delete the 5' N<sub>1</sub>X<sub>1</sub>X<sub>2</sub>CGX<sub>3</sub>X<sub>4</sub>N<sub>2</sub> 3' sequence and to replace it with a 5' X<sub>1</sub>X<sub>2</sub>CGX<sub>3</sub>X<sub>4</sub> 3' sequence. The Examiner's rationale for this second amendment was that it would be inconsistent for the claim to recite that N<sub>1</sub> and N<sub>2</sub> are composed of no nucleotides if the length of the nucleic acid is 8-100 nucleotides. Applicant's representative stated that these limitations must be read together and that they are not inconsistent with each other. Applicant's representative noted that the claimed nucleic

acid is defined as “having” the recited formula, and thus the recited formula represents either the entire sequence of the nucleic acid or a portion thereof. The latter instance occurs, for example, with nucleic acids that are greater than 56 nucleotides in length since the formula itself accounts for a maximum of 56 nucleotides. It may similarly occur, for example, when either or both  $N_1$  and  $N_2$  are composed of no nucleotides, yet in keeping with the claim the nucleic acid is at least 8 nucleotides in length.

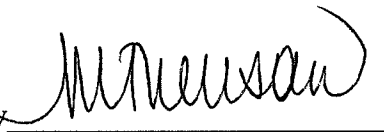
While the Examiner requested an answer from Applicant by August 18, 2008, Applicant's representative was unable to discuss the amendments with Applicant and authorize the amendment by the set deadline.

### **CONCLUSION**

If there is a fee occasioned by this response, including an extension fee, that is not covered by an enclosed check, please charge any deficiency to Deposit Account No. 23/2825.

Dated: September 15, 2008

Respectfully submitted,

By 

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